

AMENDED IN ASSEMBLY MAY 1, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2710

Introduced by Assembly Member Muratsuchi

February 21, 2014

An act to ~~amend Section 42127 of, and to add Sections 42135 and 42143 to, the Education Code, and to amend Sections 53234 and 53235.1 of the Government Code, relating to public schools.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2710, as amended, Muratsuchi. Public schools: ~~finances: transparency: school superintendent contracts: ethics training.~~

(1) Existing law ~~requires the governing board of a school district to adopt an annual budget, and requires the county superintendent of schools to examine the budget and approve, conditionally approve, or disapprove the adopted budget. Existing law requires the governing board of a school district to approve an annual statement of all receipts and expenditures of the school district for the preceding fiscal year, and to file a statement with the county superintendent of schools. authorizes a county superintendent of schools for each county to be elected or appointed by the county board of education, as specified, and sets forth the qualifications and general duties of a county superintendent of schools, including superintending the schools of his or her county. Existing law also provides for the election or employment of a district superintendent of schools to, among other things, act as the chief executive officer of the governing board of the school district.~~

This bill would require the county superintendent of schools, as part of its budget review process, to examine and comment on any proposed employment agreement and compensation package for the employment of a district superintendent of schools. The bill would provide that an employment contract for a district or county superintendent of schools that is executed or renewed on or after January 1, 2015, may include a loan for the purchase of a home only if certain conditions are met, including that the employee is relocating to an area with a high cost of housing. *The bill would require the governing board of a school district, before executing or renewing an employment contract between the school district and the district superintendent of schools, to review the proposed contract, including each contract term and the value of each element of compensations at a regularly scheduled meeting of the governing board, and would make the proposed employment contract void unless all elements of compensation are listed on the agenda of the meeting.* The bill would require a school district or county office of education that maintains an Internet Web site to post annual expenditures for its activities on its Internet Web site, including, but not limited to, ~~the titles and salaries of salary schedules for certificated and classified employees, and the compensation and employment contract of the county or district superintendent of schools.~~ *employees.* Because the bill would impose additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires all local agency officials to receive training in ethics, at specified intervals, if the local agency provides any type of compensation, salary, or stipend to those officials. Existing law defines “local agency” for purposes of those provisions.

This bill would include a county office of education and a school district in the definition of “local agency.” The bill would require local agency officials who serve a county office of education or school district as of January 1, 2015, to receive the ethics training before January 1, 2016, and at least every 2 years thereafter, except as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 42127 of the Education Code is amended~~
2 ~~to read:~~

3 ~~42127. (a) On or before July 1 of each year, the governing~~
4 ~~board of each school district shall accomplish the following:~~

5 ~~(1) Hold a public hearing on the budget to be adopted for the~~
6 ~~subsequent fiscal year. The budget to be adopted shall be prepared~~
7 ~~in accordance with Section 42126. The agenda for that hearing~~
8 ~~shall be posted at least 72 hours before the public hearing and shall~~
9 ~~include the location where the budget will be available for public~~
10 ~~inspection.~~

11 ~~(A) For the 2011–12 fiscal year, notwithstanding any of the~~
12 ~~standards and criteria adopted by the state board pursuant to Section~~
13 ~~33127, each school district budget shall project the same level of~~
14 ~~revenue per unit of average daily attendance as it received in the~~
15 ~~2010–11 fiscal year and shall maintain staffing and program levels~~
16 ~~commensurate with that level.~~

17 ~~(B) For the 2011–12 fiscal year, the school district shall not be~~
18 ~~required to demonstrate that it is able to meet its financial~~
19 ~~obligations for the two subsequent fiscal years.~~

20 ~~(2) Adopt a budget. Not later than five days after that adoption~~
21 ~~or by July 1, whichever occurs first, the governing board of the~~
22 ~~school district shall file that budget with the county superintendent~~
23 ~~of schools. The budget and supporting data shall be maintained~~
24 ~~and made available for public review. If the governing board of~~
25 ~~the school district does not want all or a portion of the property~~
26 ~~tax requirement levied for the purpose of making payments for the~~
27 ~~interest and redemption charges on indebtedness as described in~~
28 ~~paragraph (1) or (2) of subdivision (b) of Section 1 of Article~~
29 ~~XIII A of the California Constitution, the budget shall include a~~
30 ~~statement of the amount or portion for which a levy shall not be~~
31 ~~made. For the 2014–15 fiscal year and each fiscal year thereafter,~~
32 ~~the governing board of the school district shall not adopt a budget~~
33 ~~before the governing board of the school district adopts a local~~
34 ~~control and accountability plan, if an existing local control and~~
35 ~~accountability plan or annual update to a local control and~~

1 ~~accountability plan is not effective for the budget year. The~~
2 ~~governing board of a school district shall not adopt a budget that~~
3 ~~does not include the expenditures necessary to implement the local~~
4 ~~control and accountability plan or the annual update to a local~~
5 ~~control and accountability plan that is effective during the~~
6 ~~subsequent fiscal year.~~

7 ~~(b) The county superintendent of schools may accept changes~~
8 ~~in any statement included in the budget, pursuant to subdivision~~
9 ~~(a), of the amount or portion for which a property tax levy shall~~
10 ~~not be made. The county superintendent of schools or the county~~
11 ~~auditor shall compute the actual amounts to be levied on the~~
12 ~~property tax rolls of the school district for purposes that exceed~~
13 ~~apportionments to the school district pursuant to Chapter 6~~
14 ~~(commencing with Section 95) of Part 0.5 of Division 1 of the~~
15 ~~Revenue and Taxation Code. Each school district shall provide all~~
16 ~~data needed by the county superintendent of schools or the county~~
17 ~~auditor to compute the amounts. On or before August 15, the~~
18 ~~county superintendent of schools shall transmit the amounts~~
19 ~~computed to the county auditor who shall compute the tax rates~~
20 ~~necessary to produce the amounts. On or before September 1, the~~
21 ~~county auditor shall submit the rate computed to the board of~~
22 ~~supervisors for adoption.~~

23 ~~(c) The county superintendent of schools shall do all of the~~
24 ~~following:~~

25 ~~(1) Examine the adopted budget to determine whether it~~
26 ~~complies with the standards and criteria adopted by the state board~~
27 ~~pursuant to Section 33127 for application to final local educational~~
28 ~~agency budgets. The county superintendent of schools shall~~
29 ~~identify, if necessary, technical corrections that are required to be~~
30 ~~made to bring the budget into compliance with those standards~~
31 ~~and criteria.~~

32 ~~(2) Determine whether the adopted budget will allow the school~~
33 ~~district to meet its financial obligations during the fiscal year and~~
34 ~~is consistent with a financial plan that will enable the school district~~
35 ~~to satisfy its multiyear financial commitments. In addition to his~~
36 ~~or her own analysis of the budget of each school district, the county~~
37 ~~superintendent of schools shall review and consider studies, reports,~~
38 ~~evaluations, or audits of the school district that were commissioned~~
39 ~~by the school district, the county superintendent of schools, the~~
40 ~~Superintendent, and state control agencies and that contain~~

1 evidence that the school district is showing fiscal distress under
2 the standards and criteria adopted in Section 33127 or that contain
3 a finding by an external reviewer that more than 3 of the 15 most
4 common predictors of a school district needing intervention, as
5 determined by the County Office Fiscal Crisis and Management
6 Assistance Team, are present. The county superintendent of schools
7 shall either conditionally approve or disapprove a budget that does
8 not provide adequate assurance that the school district will meet
9 its current and future obligations and resolve any problems
10 identified in studies, reports, evaluations, or audits described in
11 this paragraph.

12 ~~(3) Determine whether the adopted budget includes the~~
13 ~~expenditures necessary to implement the local control and~~
14 ~~accountability plan or annual update to the local control and~~
15 ~~accountability plan approved by the county superintendent of~~
16 ~~schools.~~

17 ~~(4) Review and comment on any proposed employment~~
18 ~~agreement and compensation package for the employment of a~~
19 ~~district superintendent of schools.~~

20 ~~(d) (1) On or before August 15, the county superintendent of~~
21 ~~schools shall approve, conditionally approve, or disapprove the~~
22 ~~adopted budget for each school district. For the 2014-15 fiscal~~
23 ~~year and each fiscal year thereafter, the county superintendent of~~
24 ~~schools shall disapprove a budget if the county superintendent of~~
25 ~~schools determines that the budget does not include the~~
26 ~~expenditures necessary to implement a local control and~~
27 ~~accountability plan or an annual update to the local control and~~
28 ~~accountability plan approved by the county superintendent of~~
29 ~~schools. If a school district does not submit a budget to the county~~
30 ~~superintendent of schools, the county superintendent of schools~~
31 ~~shall develop, at school district expense, a budget for that school~~
32 ~~district by September 15 and transmit that budget to the governing~~
33 ~~board of the school district. The budget prepared by the county~~
34 ~~superintendent of schools shall be deemed adopted, unless the~~
35 ~~county superintendent of schools approves any modifications made~~
36 ~~by the governing board of the school district. The approved budget~~
37 ~~shall be used as a guide for the school district's priorities. The~~
38 ~~Superintendent shall review and certify the budget approved by~~
39 ~~the county. If, pursuant to the review conducted pursuant to~~
40 ~~subdivision (c), the county superintendent of schools determines~~

1 that the adopted budget for a school district does not satisfy
2 paragraph (1), (2), or (3) of that subdivision, he or she shall
3 conditionally approve or disapprove the budget and, not later than
4 August 15, transmit to the governing board of the school district,
5 in writing, his or her recommendations regarding revision of the
6 budget and the reasons for those recommendations, including, but
7 not limited to, the amounts of any budget adjustments needed
8 before he or she can approve that budget. The county
9 superintendent of schools may assign a fiscal adviser to assist the
10 school district to develop a budget in compliance with those
11 revisions. In addition, the county superintendent of schools may
12 appoint a committee to examine and comment on the
13 superintendent's review and recommendations, subject to the
14 requirement that the committee report its findings to the county
15 superintendent of schools no later than August 20. For the 2011-12
16 fiscal year, notwithstanding any of the standards and criteria
17 adopted by the state board pursuant to Section 33127, the county
18 superintendent of schools, as a condition on approval of a school
19 district budget, shall not require a school district to project a lower
20 level of revenue per unit of average daily attendance than it
21 received in the 2010-11 fiscal year nor require the school district
22 to demonstrate that it is able to meet its financial obligations for
23 the two subsequent fiscal years.

24 (2) Notwithstanding any other provision of this article, for the
25 2014-15 fiscal year and each fiscal year thereafter, the budget
26 shall not be adopted or approved by the county superintendent of
27 schools before a local control and accountability plan or update to
28 an existing local control and accountability plan for the budget
29 year is approved.

30 (e) On or before September 8, the governing board of the school
31 district shall revise the adopted budget to reflect changes in
32 projected income or expenditures subsequent to July 1, and to
33 include any response to the recommendations of the county
34 superintendent of schools, shall adopt the revised budget, and shall
35 file the revised budget with the county superintendent of schools.
36 Before revising the budget, the governing board of the school
37 district shall hold a public hearing regarding the proposed revisions,
38 to be conducted in accordance with Section 42103. In addition, if
39 the adopted budget is disapproved pursuant to subdivision (d), the
40 governing board of the school district and the county

1 superintendent of schools shall review the disapproval and the
2 recommendations of the county superintendent of schools regarding
3 revision of the budget at the public hearing. The revised budget
4 and supporting data shall be maintained and made available for
5 public review.

6 (1) For the 2011-12 fiscal year, notwithstanding any of the
7 standards and criteria adopted by the state board pursuant to Section
8 33127, each school district budget shall project the same level of
9 revenue per unit of average daily attendance as it received in the
10 2010-11 fiscal year and shall maintain staffing and program levels
11 commensurate with that level.

12 (2) For the 2011-12 fiscal year, the school district shall not be
13 required to demonstrate that it is able to meet its financial
14 obligations for the two subsequent fiscal years.

15 (f) On or before September 22, the county superintendent of
16 schools shall provide a list to the Superintendent identifying all
17 school districts for which budgets may be disapproved.

18 (g) (1) The county superintendent of schools shall examine the
19 revised budget to determine whether it (1) complies with the
20 standards and criteria adopted by the state board pursuant to Section
21 33127 for application to final local educational agency budgets;
22 (2) allows the school district to meet its financial obligations during
23 the fiscal year, (3) satisfies all conditions established by the county
24 superintendent of schools in the case of a conditionally approved
25 budget, and (4) is consistent with a financial plan that will enable
26 the school district to satisfy its multiyear financial commitments;
27 and, not later than October 8, shall approve or disapprove the
28 revised budget. If the county superintendent of schools disapproves
29 the budget, he or she shall call for the formation of a budget review
30 committee pursuant to Section 42127.1, unless the governing board
31 of the school district and the county superintendent of schools
32 agree to waive the requirement that a budget review committee be
33 formed and the department approves the waiver after determining
34 that a budget review committee is not necessary. Upon the grant
35 of a waiver, the county superintendent of schools immediately has
36 the authority and responsibility provided in Section 42127.3. Upon
37 approving a waiver of the budget review committee, the department
38 shall ensure that a balanced budget is adopted for the school district
39 by November 30. If no budget is adopted by November 30, the
40 Superintendent may adopt a budget for the school district. The

1 Superintendent shall report to the Legislature and the Director of
2 Finance by December 10 if any school district, including a school
3 district that has received a waiver of the budget review committee
4 process, does not have an adopted budget by November 30. This
5 report shall include the reasons why a budget has not been adopted
6 by the deadline, the steps being taken to finalize budget adoption,
7 the date the adopted budget is anticipated, and whether the
8 Superintendent has or will exercise his or her authority to adopt a
9 budget for the school district. For the 2011-12 fiscal year,
10 notwithstanding any of the standards and criteria adopted by the
11 state board pursuant to Section 33127, the county superintendent
12 of schools, as a condition on approval of a school district budget,
13 shall not require a school district to project a lower level of revenue
14 per unit of average daily attendance than it received in the 2010-11
15 fiscal year nor require the school district to demonstrate that it is
16 able to meet its financial obligations for the two subsequent fiscal
17 years.

18 (2) Notwithstanding any other law, for the 2014-15 fiscal year
19 and each fiscal year thereafter, if the county superintendent of
20 schools disapproves the budget for the sole reason that the county
21 superintendent of schools has not approved a local control and
22 accountability plan or an annual update to the local control and
23 accountability plan filed by the school district pursuant to Section
24 52061, the county superintendent of schools shall not call for the
25 formation of a budget review committee pursuant to Section
26 42127.1.

27 (h) On or before October 8, the county superintendent of schools
28 shall submit a report to the Superintendent identifying all school
29 districts for which budgets have been disapproved or budget review
30 committees waived. The report shall include a copy of the written
31 response transmitted to each of those school districts pursuant to
32 paragraph (1) of subdivision (d).

33 (i) Notwithstanding any other provision of this section, the
34 budget review for a school district shall be governed by paragraphs
35 (1), (2), and (3), rather than by subdivisions (e) and (g), if the
36 governing board of the school district so elects and notifies the
37 county superintendent of schools in writing of that decision, not
38 later than October 31 of the immediately preceding calendar year.
39 On or before July 1, the governing board of a school district for
40 which the budget review is governed by this subdivision, rather

1 than by subdivisions (e) and (g), shall conduct a public hearing
2 regarding its proposed budget in accordance with Section 42103.

3 (1) If the adopted budget of a school district is disapproved
4 pursuant to subdivision (d), on or before September 8, the
5 governing board of the school district, in conjunction with the
6 county superintendent of schools, shall review the superintendent's
7 recommendations at a regular meeting of the governing board of
8 the school district and respond to those recommendations. The
9 response shall include any revisions to the adopted budget and
10 other proposed actions to be taken, if any, as a result of those
11 recommendations.

12 (2) On or before September 22, the county superintendent of
13 schools shall provide a list to the Superintendent identifying all
14 school districts for which a budget may be tentatively disapproved.

15 (3) Not later than October 8, after receiving the response
16 required under paragraph (1), the county superintendent of schools
17 shall review that response and either approve or disapprove the
18 budget. Except as provided in paragraph (2) of subdivision (g), if
19 the county superintendent of schools disapproves the budget, he
20 or she shall call for the formation of a budget review committee
21 pursuant to Section 42127.1, unless the governing board of the
22 school district and the county superintendent of schools agree to
23 waive the requirement that a budget review committee be formed
24 and the department approves the waiver after determining that a
25 budget review committee is not necessary. Upon the grant of a
26 waiver, the county superintendent has the authority and
27 responsibility provided to a budget review committee in Section
28 42127.3. Upon approving a waiver of the budget review committee,
29 the department shall ensure that a balanced budget is adopted for
30 the school district by November 30. The Superintendent shall
31 report to the Legislature and the Director of Finance by December
32 10 if any school district, including a school district that has received
33 a waiver of the budget review committee process, does not have
34 an adopted budget by November 30. This report shall include the
35 reasons why a budget has not been adopted by the deadline, the
36 steps being taken to finalize budget adoption, and the date the
37 adopted budget is anticipated. For the 2011-12 fiscal year,
38 notwithstanding any of the standards and criteria adopted by the
39 state board pursuant to Section 33127, the county superintendent
40 of schools, as a condition on approval of a school district budget,

1 shall not require a school district to project a lower level of revenue
2 per unit of average daily attendance than it received in the 2010–11
3 fiscal year nor require the school district to demonstrate that it is
4 able to meet its financial obligations for the two subsequent fiscal
5 years.

6 ~~(4) Not later than 45 days after the Governor signs the annual~~
7 ~~Budget Act, the school district shall make available for public~~
8 ~~review any revisions in revenues and expenditures that it has made~~
9 ~~to its budget to reflect the funding made available by that Budget~~
10 ~~Act.~~

11 ~~(j) Any school district for which the county board of education~~
12 ~~serves as the governing board of the school district is not subject~~
13 ~~to subdivisions (c) to (h), inclusive, but is governed instead by the~~
14 ~~budget procedures set forth in Section 1622.~~

15 ~~SEC. 2.~~

16 *SECTION 1.* Section 42135 is added to the Education Code,
17 to read:

18 42135. (a) An employment contract executed or renewed on
19 or after January 1, 2015, between a local educational agency and
20 a district or county superintendent of schools may include a loan
21 for the purchase of a home only if both of the following conditions
22 are satisfied:

23 ~~(a)~~

24 ~~(1) The employee is relocating to an area with a high cost of~~
25 ~~housing, and the school board makes a public finding to that effect.~~

26 ~~(b)~~

27 ~~(2) The loan agreement contains a provision that, if employment~~
28 ~~is terminated by either the employer or the employee, the unpaid~~
29 ~~balance of the loan may be recovered by the local educational~~
30 ~~agency within a reasonable period of time.~~

31 *(b) Before executing or renewing an employment contract*
32 *between a school district and a district superintendent of schools,*
33 *the governing board of the school district shall review the proposed*
34 *contract, including each contract term and the value of each*
35 *element of compensation, at a regularly scheduled meeting of the*
36 *governing board. Each compensation term and its value shall be*
37 *listed in the agenda for the meeting in accordance with Chapter*
38 *9 (commencing with Section 54950) of Part 1 of Division 2 of Title*
39 *5 of the Government Code. The portion of the meeting that is open*
40 *to the public shall include public discussion and comment on each*

1 *element of the proposed contract. If all elements of compensation*
2 *in the proposed contract are not listed in the agenda, as specified*
3 *in this subdivision, the employment contract shall be void.*

4 *(c) The Legislature encourages the governing board of the*
5 *school district to make a public finding that the employment*
6 *contract, including each element of compensation, is reasonable*
7 *in comparison to similar school districts in the state.*

8 ~~SEC. 3.~~

9 *SEC. 2.* Section 42143 is added to the Education Code, to read:

10 42143. (a) If a school district or county office of education
11 maintains an Internet Web site, it shall post the annual expenditures
12 for its activities in a clear, visible, and searchable format that
13 includes, but is not limited to, the following:

14 (1) The cost of instruction.

15 ~~(2) The titles and salaries of~~ *salary schedule for* certificated
16 employees.

17 ~~(3) The titles and salaries of~~ *salary schedule for* classified
18 employees.

19 ~~(4) The compensation and employment contract of the county~~
20 ~~superintendent of schools or the district superintendent of schools,~~
21 ~~as applicable.~~

22 ~~(5)~~

23 (4) The total amount of expenditures.

24 ~~(6)~~

25 (5) The expenditure per unit of average daily attendance, and a
26 comparison of that number to the statewide average for all school
27 districts.

28 (b) The school district or county office of education shall
29 annually update the information required pursuant to this section,
30 and shall include a link on its Internet Web site to the school
31 district's or county office of education's profile on Ed-Data.

32 ~~SEC. 4.~~

33 *SEC. 3.* Section 53234 of the Government Code is amended
34 to read:

35 53234. For purposes of this article, the following terms have
36 the following meanings:

37 (a) "Legislative body" has the same meaning as specified in
38 Section 54952.

(b) “Local agency” means a city, county, city and county, charter city, charter county, charter city and county, county office of education, school district, or special district.

(c) “Local agency official” means the following:

(1) Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

(2) Any employee designated by a local agency governing body to receive the training specified under this article.

(d) “Ethics laws” include, but are not limited to, the following:

(1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(2) Laws relating to claiming perquisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

~~SEC. 5.~~

SEC. 4. Section 53235.1 of the Government Code is amended to read:

53235.1. (a) Each local agency official in local agency service as of January 1, 2006, except for officials whose term of office ends before January 9, 2007, shall receive the training required by subdivision (a) of Section 53235 before January 1, 2007. Thereafter, each local agency official shall receive the training required by subdivision (a) of Section 53235 at least once every two years.

(b) Each local agency official who commences service with a local agency on or after January 1, 2006, shall receive the training

1 required by subdivision (a) of Section 53235 no later than one year
2 from the first day of service with the local agency. Thereafter, each
3 local agency official shall receive the training required by
4 subdivision (a) of Section 53235 at least once every two years.

5 (c) For county offices of education or school districts, each local
6 agency official in service as of January 1, 2015, except for officials
7 whose term of office ends before January 1, 2016, shall receive
8 the training required pursuant to subdivision (a) of Section 53235
9 before January 1, 2016. Thereafter, each local agency official shall
10 receive the training required by subdivision (a) of Section 53235
11 at least once every two years.

12 (d) A local agency official who serves more than one local
13 agency shall satisfy the requirements of this article once every two
14 years without regard to the number of local agencies with which
15 he or she serves.

16 ~~SEC. 6.~~

17 *SEC. 5.* If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.